



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 15**

**[ET Docket No. 13-49; FCC 15-61]**

**Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; request for waiver.

**SUMMARY:** In this document, the Commission has waived requirements of certain rules that the National Information Infrastructure (U-NII) devices must comply with. This action is in response to a request by a group of interested parties to extend this compliance deadline as part of a larger review of the transition provision adopted for the U-NII-3 band. In order to facilitate the new technical requirements, without unduly impairing the availability or cost of U-NII devices or imposing undue burdens on manufacturers or the public the Commission adopted transition provisions which are outlined in the Commission's rules. Doing so will give the Commission adequate time to consider the entire record, including the Joint Petitioners, as part of the reconsideration proceeding.

**DATES:** Effective date: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Applicability date: Applicable June 1, 2015, the requirements in § 15.37(h) are waived until December 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** Aole Wilkins, Office of Engineering and Technology, (202) 418-2406, e-mail: [Aole.Wilkins@fcc.gov](mailto:Aole.Wilkins@fcc.gov), TTY (202) 418-2989.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order, ET Docket No. 13-49; FCC 15-61, adopted June 1, 2015, and released June 1, 2015. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The full text may also be downloaded at:

## Summary of Order

1. By this Order, the Commission waives until December 2, 2015 the requirement in § 15.37(h) of the Commission's rules that certain National Information Infrastructure (U-NII) devices must comply with its § 15.407 rules to be certified on and after June 2, 2015. This action is taken in response to a request by a group of interested parties (Joint Petitioners) to extend this compliance deadline as part of a larger review of the transition provisions the Commission recently adopted for the U-NII-3 band. This action is being taken without prejudice relative to the merits of the Joint Petitioners' filings in the docket.

2. On April 1, 2014, the Commission released a First Report and Order in the above-captioned proceeding. This First R&O increased the utility of the 5 GHz band where U-NII devices operate, and modified certain U-NII rules and testing procedures to ensure that U-NII devices do not cause harmful interference to authorized users of the band. The First R&O, inter alia, extended the upper edge of the 5.725-5.825 GHz U-NII-3 band to 5.85 GHz and consolidated the provisions applicable to digitally modulated devices from § 15.247 of the rules with the U-NII-3 rules in § 15.407 so that all the digitally modulated devices operating in the U-NII-3 band will operate under the same set of rules and be subject to the new device security requirement. Notably, the consolidated rules adopted require the more stringent out-of-band emissions limit formerly applicable only to U-NII-3 devices in order to protect Terminal Doppler Weather Radar (TDWR) facilities from inference.

3. To facilitate the transition to the new technical requirements, without unduly impairing the availability or cost of U-NII devices or imposing undue burdens on manufacturers, or the public, the Commission adopted transition provisions which are outlined in § 15.37(h). These transition provisions require that the marketing, sale and importation into the United States of digitally modulated and hybrid devices designed to operate in the U-NII-3 band and certified under the old § 15.247 rules must cease by

June 2, 2016. As an intermediate measure, they provide that after June 2, 2015, digital modulation devices and the digital modulation portion of hybrid devices designed to operate in the U-NII-3 band must meet the new § 15.407 U-NII-3 rules to be FCC certified. This waiver order exclusively addresses the June 2, 2015 certification requirement.

4. Petitions for reconsideration of the First R&O are still pending. While the petitioners have generally alleged that the current state of the technology inhibits the design of affordable products that could comply with the more stringent out-of-band emission limits for the U-NII-3 band, the alternatives they suggested have been wide-ranging and many of the parties could not agree on a single solution that would meet the needs of the varying industry segments. Significant information was, and continues to be, submitted into the record. In particular, on March 23, 2015, the Joint Petitioners filed a self-styled “Consensus Proposal.” This detailed filing included technical rules that would significantly modify the out-of- band emission limits adopted for the U-NII-3 Band in the First R&O. Shortly thereafter, the Joint Petitioners requested that the Commission waive § 15.37(h) of the rules.

5. In light of the recent activity in the docket, The Commission conclude that there is good cause to grant a waiver of the June 2, 2015 U-NII device certification date. Doing so will give the Commission adequate time to consider the entire record – including the Joint Petitioners’ “Consensus Proposal” – as part of the reconsideration proceeding, and it will continue to certify U-NII-3 band devices meeting the requirements of the old § 15.427 until December 2, 2015. A brief extension of the intermediate transition deadline will not frustrate the ultimate U-NII-3 transition adopted in the First R&O, including the Commission’s determinations regarding the marketing, importation, and sale of digitally modulated and hybrid devices. Grant of the waiver, however, will permit manufacturers to better plan their research and design activities to comply with the outcome of any further action we may take on reconsideration.

6. Pursuant to the authority in § 1.3 of the Commission's rules, 47 CFR 1.3, and sections 302, 303(e), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 302, 303(e) and 303(r), IT IS ORDERED that the § 15.37(h) of the Commission’s rules, 47 CFR 15.37(h) IS WAIVED to the extent

discussed above until December 2, 2015.

7. The effective date of the Order is June 1, 2015, the date upon which this Order was released by the Commission.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch,  
Secretary.

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